

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

ALI K ZAAROUR,

Plaintiff,

V.

RONALD T MURPHY,

Defendant.

Civil Action No. 21-20782 (JXN)(CLW)

MEMORANDUM ORDER

NEALS, District Judge:

Currently pending before the Court is a motion for default judgment [ECF No. 19] filed by Plaintiff Ali K. Zaarour, to which Defendant has opposed [ECF No. 24] and Plaintiff has replied [ECF No. 25]. The matter is ripe and the Court decides the matter without oral argument under Federal Rule of Civil Procedure 78(b) and Local Civil Rule 78.1(b).

In the motion, Plaintiff contends that Defendant failed to comply with the Court's discovery orders and to appear for his deposition. *See* ECF No. 21. In response, Defendant submits that he was not personally responsible for his failure to cooperate in discovery because he was incarcerated and unavailable. ECF No. 24. While the decision to enter default judgment is left principally to the discretion of the district court, there is a well-established preference in the Third Circuit for cases to be decided on the merits rather than by default judgment whenever practicable. *Hritz v. Woma Corp.*, 732 F.2d 1178, 1180–81 (3d Cir. 1984).

Since Plaintiff filed his motion, Defendant has actively participated in this litigation. Defendant has worked with Plaintiff to complete discovery and has participated in several

conferences with the Court. Given the Court's preference to decide issues on the merits rather than by default judgment, Plaintiff motion for default judgment [ECF No. 19] is **DENIED**.

DATED: May 25, 2023

s/ Julien Xavier Neals
JULIEN XAVIER NEALS
United States District Judge